

**Before the  
Federal Communications Commission  
Washington, D.C.**

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In the Matter of	)	
	)	
Expanding the Economic and	)	Docket No. 12-268
	)	
Innovation Opportunities of	)	
	)	
Spectrum Through Incentive Auctions	)	
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**REPLY COMMENTS OF TECHAMERICA**

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TechAmerica hereby submits these reply comments in response to the Federal Communications Commission's ("Commission") Notice of Proposed Rulemaking in the above captioned proceeding.<sup>1</sup>

TechAmerica is the leading voice for the U.S. technology industry, which is the driving force behind productivity growth and jobs creation in the United States and the foundation for the global innovation economy. Representing approximately 1,000 member companies of all sizes from the public and commercial sectors of the economy, TechAmerica is the industry's largest advocacy organization.

TechAmerica's members include: (a) manufacturers and suppliers of broadband networks and equipment; (b) consumer electronics companies; (c) information and communications technology hardware companies; (d) software and application providers; (e) systems integrators; (f) Internet and e-commerce companies; and (g) Internet service providers. All have a vested interest in the Commission's work in this matter, as a robust broadband marketplace will assuredly enable innovation throughout the entire ICT sector.

## **Introduction**

TechAmerica applauds the Commission's timely work on implementing Title VI of the Middle Class Tax Relief and Job Creation Act of 2012 ("Spectrum Act").

TechAmerica has long supported the creation of an incentive auction of certain spectrum within the 600 MHz band as a much-needed solution to ensuring the wireless industry remains vibrant and meets consumers' ever growing needs. As has been stated often, including by Chairman Genachowski, the need for additional spectrum is

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<sup>1</sup>*In the Matter of Expanding Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Notice of Proposed Rulemaking, FCC 12-118, Docket No. 12-268 (rel. Oct 2, 2012)("NPRM").

real and immediate. A variety of commenters cited statistics demonstrating the increasing need for spectrum to meet consumer demand and TechAmerica agrees with that assessment.<sup>2</sup> TechAmerica is thankful for the Commission's work heretofore in implementing the National Broadband Plan and believes the auctions associated with the 600 MHz band can and will be a success. Of course, as numerous commenters noted during the initial comment round, the Commission's task in this regard is quite difficult.

That said, TechAmerica is pleasantly surprised to find, upon review of the comments filed, that there is a fair amount of agreement on key aspects of the 600 MHz spectrum auctions. And while there will assuredly be differences of opinion on the logistics of the auctions, TechAmerica is optimistic that the Commission can chart a reasonable and sufficiently prudent path forward.

### **Band Plan and Licensing Approach**

TechAmerica is in agreement with a variety of commenters that the Commission's proposal to auction the 600 MHz spectrum in 5 MHz blocks is a sensible approach.<sup>3</sup> Additionally, TechAmerica concurs with commenters who support the Commission's preference for pairing spectrum blocks and for keeping the downlink band consistent nationwide.<sup>4</sup>

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<sup>2</sup> See e.g., Comments of Cisco at 7; Comments of Verizon at 3-4; Comments of Motorola Mobility at 4.

<sup>3</sup> See e.g., Comments of AT&T at 3; Comments of Research in Motion Corp. at 6-7; Comments of Qualcomm Inc. at 5; Comments of Motorola Mobility at 13; Comments of CTIA – The Wireless Association at 20.

<sup>4</sup> NPRM at ¶124-126; Comments of Verizon at 6-7; Comments of CTIA – The Wireless Association at 20.

TechAmerica believes that the Commission's proposed approach in this regard will maximize the value of the relinquished spectrum, which will lead to greater revenue and greater utilization and innovation.

Notwithstanding that, TechAmerica agrees with commenters that a duplex gap of at least 10 MHz is required and that the guard band should be larger than 6 MHz.<sup>5</sup> Further, TechAmerica agrees with commenters that the Commission should refrain from allowing broadcast television stations from operating within the duplex gap.<sup>6</sup>

Finally, TechAmerica believes there is consensus among commenters that the Commission should adopt a contiguous "down from TV 51" approach to its band plan. Such an approach makes sense and serves to maximize the value of the spectrum auctioned.

### **Treatment of Unlicensed Spectrum**

TechAmerica believes that the Commission should promote the advancement of innovative spectrum access models and spectrum sharing technologies in order to fully utilize licensed and unlicensed spectrum.

To be sure, the growth in utilization of unlicensed spectrum is now well-known and documented.<sup>7</sup> TechAmerica believes that a sufficient amount of unlicensed spectrum can potentially be accommodated in the guard bands established with the 600 MHz band. By including unlicensed spectrum, taking into consideration possible

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<sup>5</sup> See e.g., Comments of CTIA – The Wireless Association at 27-28; Comments of Motorola Mobility at 13; January 24 Letter to Gary Epstein and Ruth Milkman from AT&T, Intel, National Association of Broadcasters, Qualcomm, T-Mobile, and Verizon Wireless at 2 ("Coalition Letter").

<sup>6</sup> Coalition Letter at 1.

<sup>7</sup> See e.g., Joint Comments of Google and Microsoft at 3-21; see generally Comments of the Consumer Federation of America.

interference to licensed services,<sup>8</sup> alongside sufficient licensed spectrum, the FCC will help drive innovation forward within the ICT industry.

In this vein and in accordance with the statutory mandates in the Spectrum Act,<sup>9</sup> the Commission should ensure that a reasonable amount of unlicensed spectrum is released as a result of the spectrum auctions. TechAmerica defers to the Commission's reasoned judgment, in light of the comments filed on this matter, as to where such unlicensed spectrum can be found within the 600 MHz band. Regardless, TechAmerica is confident that the Commission can ensure that there is a maximum amount of licensed spectrum available for auction while not unnecessarily hindering the deployment of new unlicensed spectrum going forward.

### **Auction Participation**

Consistent with Congress's intent to maximize the amount of licensed spectrum available for auction, the FCC should allow for as many broadcasters as possible to participate in the reverse auction. In this regard, TechAmerica agrees with commenters who suggest that the Commission should enact policies that are relatively uncomplicated and facilitate rather than hinder broadcaster involvement.<sup>10</sup> Allowance for bids for voluntary relocations to low VHF channels, for instance, and streamlined pre-auction application requirements are worthy suggestions. Notwithstanding the

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<sup>8</sup> See Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, §6407(e), 126 Stat. 232 (2012) (Spectrum Act).

<sup>9</sup> See *e.g.*, Spectrum Act §6407(b) (“guard bands shall be no larger than is technically reasonable to prevent harmful interference between licensed services outside the guard bands”).

<sup>10</sup> Comments of Motorola Mobility at 6-7; Comments of Cisco at 9.

above, TechAmerica agrees with certain commenters that low-power television stations should not participate in the reverse auction.<sup>11</sup>

With regard to the forward auction, TechAmerica believes it should be open, flexible, and transparent. TechAmerica disagrees with commenters who propose that the Commission should impose constraints, such as spectrum screens, on participants.<sup>12</sup> In order to maximize full utilization and monetization of the relinquished 600 MHz spectrum, per Congress's intent, the Commission must let all viable participants bid. To impose auction-specific aggregation limits and/or other constraints, such as mandated interoperability standards, on potential bidders would only diminish the value of the auction and would not achieve the goals of Congress or the Commission in deploying additional spectrum for wireless broadband nationwide.

### **Timing**

As has been stated by TechAmerica and others, the need for additional spectrum in the marketplace is pressing and real. And while TechAmerica recognizes that the incentive auctions and concomitant repacking will be challenging, this does not justify delaying the auctions beyond 2014 or otherwise delaying the post-auction process, as some have suggested.<sup>13</sup> Indeed, TechAmerica believes that it is imperative that the Commission state a firm auction date for the reverse and forward auction as soon as practicable. Time is of the essence.

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<sup>11</sup> See e.g., Comments of CTIA – The Wireless Association at 33;

<sup>12</sup> See e.g., Comments of Competitive Carriers Association at 4-6; Comments of Public Interest Spectrum Coalition at 63-66.

<sup>13</sup> See e.g., Comments of National Association of Broadcasters at 3-4; Comments of Sinclair Broadcast Group at 4; Comments of Tribune at 25-26; Comments of Walt Disney Company at 38.

## **Conclusion**

TechAmerica commends the Commission for initiating its NPRM in a timely fashion. While the incentive auction process poses several logistical and policy challenges, TechAmerica believes the Commission can meet Congress's mandate to maximize the utility of spectrum in the 600 MHz band and ensure that the wireless broadband industry continues to thrive if it allows for a timely, open, flexible, and transparent process consistent with the comments espoused above.